

Congress of the United States
Washington, DC 20515

December 18, 2020

The Honorable Joseph R. Biden, Jr.
President-Elect of the United States
Biden-Harris Transition
Washington, D.C. 20500

Dear Mr. President-Elect,

As leaders of the Congressional Pro-Choice Caucus, we write to request the Biden administration take swift and proactive actions to preserve, protect, and advance sexual and reproductive health, rights, and justice for people in the U.S. and around the world.

The Congressional Pro-Choice Caucus is a coalition of Members of the House of Representatives working to protect, preserve, and expand access to affordable reproductive health services, including abortion, for all people. Led by Co-Chairs Diana DeGette (D-CO) and Barbara Lee (D-CA), the Caucus serves as the first line of defense against anti-choice legislation and regulations and works to advance access to sexual and reproductive health care in the U.S. and around the world.

Support for reproductive rights has never been higher; seven in ten Americans consistently say that access to abortion should be safe and legal, and more than half of adults say contraception should be available at no cost, especially during a pandemic. However, access to reproductive health care is in crisis and the constitutional right is under constant threat. President Trump and the Republican-controlled Senate have worked in tandem to severely limit access to reproductive health services through legislation, executive action, and lifetime appointments to judges who have extreme records opposed to reproductive health, rights, and justice.

The pro-choice House majority in the 117th Congress presents a unique and timely opportunity to stand strong against this unprecedented adversity. We are committed to protecting and advancing sexual and reproductive health and stand ready to partner with your administration on policies, regulations, and budgets to ensure that all people are free and equal to exercise bodily autonomy, as well as the nomination and appointment of executive branch officials who will champion these issues.

There are immediate steps your administration should take to reverse the damage the Trump administration has inflicted and make progress to expand sexual and reproductive health and rights, none of which requires legislation. Specifically, we urge your administration to do the following:

- Issue an executive order unequivocally stating the Biden-Harris Administration's commitment to protect and expand access to comprehensive reproductive health care, uphold sexual and reproductive rights, including abortion care, in the U.S. and around the world, rescinding or revoking prior executive actions limiting access to care, and directing

agencies to review policies to ensure that they align with these principles, including by issuing regulations or guidance. The EO should:

- Revoke the January 23, 2017 Presidential Memorandum Regarding the Mexico City Policy (also referred to as the Global Gag Rule).¹ The expanded policy requires foreign non-governmental organizations to certify that they will not “perform or actively promote abortion as a method of family planning,” even with their own funds, as a condition of receiving most U.S. global health assistance. Rescinding this policy is crucial to ensure access to comprehensive reproductive health care around the world.
- Expand U.S. foreign assistance support for abortion care to the maximum extent allowed under the Helms amendment, namely by immediately clarifying that funds can be used to support abortion care provided in cases of rape, incest or life endangerment of the pregnant person and for abortion information and counseling.
- Rescind Executive Order 13535,² Patient Protection and Affordable Care Act’s Consistency with Longstanding Restrictions on the Use of Federal Funds for Abortion. This EO has been used by the Trump administration and anti-choice members of Congress to attempt to push abortion care out of reach.
- Direct the Secretary of Health and Human Services to issue guidance to lift the FDA’s in-person dispensing requirement³ for mifepristone, a medication used to safely and effectively end an early pregnancy or treat an early miscarriage, for the duration of the public health emergency, consistent with similar directives and waivers issued to reduce risk of COVID-19. The EO should also direct FDA to initiate a comprehensive review of the full restrictions on mifepristone to ensure that access is based on the latest science and medical evidence, even beyond the pandemic.
- Rescind the following final regulations that undermine access to health care coverage and care, including abortion and contraception, and reverse any litigation position that undermines access to reproductive health care, including:
 - The Title X Domestic Gag Rule.⁴ The Trump administration severely undercut the nation’s only dedicated family planning program with its 2019 program rule and when it allowed unqualified providers into the program. In addition to rescinding the rule, the administration should:
 - Prohibit states from blocking family planning providers that also provide abortions from participating in Title X;
 - Require Title X-funded entities to conform to the Quality Family Planning guidelines, the CDC-endorsed national standard for family planning; and
 - Support a substantial funding increase to rebuild the network.

¹ <https://www.whitehouse.gov/presidential-actions/presidential-memorandum-regarding-mexico-city-policy/>

² <https://obamawhitehouse.archives.gov/the-press-office/executive-order-patient-protection-and-affordable-care-acts-consistency-with-longst>

³ <https://www.fda.gov/drugs/postmarket-drug-safety-information-patients-and-providers/mifeprex-mifepristone-information>

⁴ <https://www.hhs.gov/about/news/2019/02/22/fact-sheet-final-title-x-rule-detailing-family-planning-grant-program.html>

- The Trump Administration’s birth control coverage exemption rules, which allow virtually any employer to refuse to cover birth control for their employees, contrary to the ACA;
- The Refusal of Care rule, which invites many individuals or entities involved in patient care to withhold and obstruct health care services and information without regard for patients’ wellbeing;
- The rule that undermines the Health Care Rights Law, Section 1557 of the Affordable Care Act, and emboldens discrimination against LGBTQ+, individuals, Black people, indigenous communities, Latinos, Asian Americans and Pacific Islanders, people with limited English proficiency, and people seeking reproductive health care. Revising this regulation is crucial to ensuring robust implementation of the Health Care Rights Law;
- The public charge rule, a Trump Administration rule that expands and weaponizes the concept of “public charge” to discourage immigrants from accessing basic services and public programs; and
- The 1303 abortion coverage rule requiring separate billing and payment transactions for abortion coverage in certain health plans under the ACA.
- Make a public statement that the U.S. will re-engage on a global scale to advance the health and rights of individuals worldwide. Specific actions should include:
 - Re-entering the United States into and restoring funding to the World Health Organization;
 - Disbanding the Commission on Unalienable Rights and disassociating from the Commission’s report and the anti-abortion Geneva Consensus Declaration⁵;
 - Restoring reproductive and sexual rights reporting in State Department country reporting on human rights;
 - Restoring funding to the UN Population Fund (UNFPA), the UN’s sexual and reproductive health agency; and
 - Championing sexual and reproductive health and rights at the UN and in international forums.
- Reverse the Trump Administration’s restrictions⁶ on biomedical research that involves fetal tissue.
- Reinstate the Department of Health and Human Services guidance⁷ from 2016 reaffirming Medicaid’s free choice of provider provisions, which ensures that states may not exclude qualified providers of reproductive health care from Medicaid for reasons unrelated to their qualifications, including their provision of abortion care.
- Rescind a 2008 Office of Refugee Resettlement (ORR) policy⁸ that requires heightened ORR involvement in abortion, and issue new guidance to ensure that all ORR care facilities provide minors with timely, confidential access to family planning services.
- Clarify that PEPFAR funds can be used to pay for contraception to ensure individuals living with and at risk for HIV have access to a full range of voluntary contraception options.

⁵ <https://www.hhs.gov/sites/default/files/geneva-consensus-declaration-english.pdf>

⁶ <https://grants.nih.gov/grants/guide/notice-files/NOT-OD-19-128.html>

⁷ <https://www.medicaid.gov/federal-policy-guidance/downloads/smd16005.pdf>

⁸ https://www.acf.hhs.gov/sites/default/files/orr/medical_services_requiring_heightened_orr_involvement.pdf

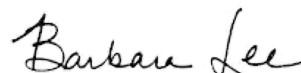
- Rescind Executive Order 13798,⁹ Promoting Free Speech and Religious Liberty, which set the stage for the Trump Administration to expand the use of religion to discriminate against people seeking reproductive health care.
- Halt all non-final regulations that will limit access to health care, including reproductive health care.

We look forward to working with your Administration to ensure that everyone has access to reproductive health care no matter their income or zip code.

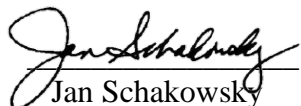
Sincerely,



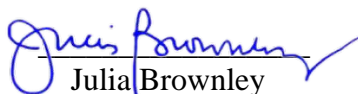
Diana DeGette
Member of Congress



Barbara Lee
Member of Congress



Jan Schakowsky
Member of Congress



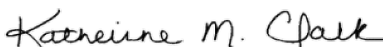
Julia Brownley
Member of Congress



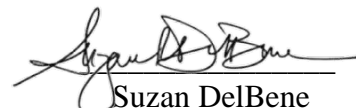
Jackie Speier
Member of Congress



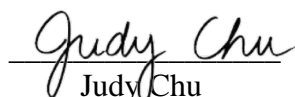
Theodore E. Deutch
Member of Congress



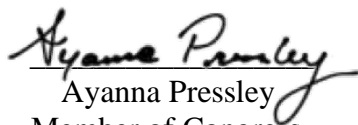
Katherine Clark
Member of Congress



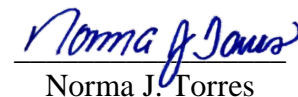
Suzan DelBene
Member of Congress



Judy Chu
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Ayanna Pressley
Member of Congress



Norma J. Torres
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⁹<https://www.whitehouse.gov/presidential-actions/presidential-executive-order-promoting-free-speech-religious-liberty/>